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REPORT
101-32

AUTHORIZING THE ACCEPTANCE OF CERTAIN LANDS FOR ADDITION TO HARPERS FERRY NATIONAL HISTORICAL PARK, WEST VIRGINIA

MAY 25, 1989.—Ordered to be printed

Filed under authority of the order of the Senate of May 13 (legislative day, January 3), 1989

Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 85]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 85) to authorize the acceptance of certain lands for addition to Harpers Ferry National Historical Park, West Virginia, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

(a) That the first section of the Act entitled "An Act to provide for the establishment of the Harpers Ferry National Monument", approved June 30, 1944 (58 Stat. 645; 16 U.S.C. 450bb), is amended by—

(1) striking "two thousand four hundred and seventy-five acres" in the first sentence and inserting "two thousand five hundred and five acres"; and

(2) inserting after the first sentence the following: "The Secretary is authorized to acquire, by donation only, approximately twenty-seven acres of land or interests therein which are outside the boundary of the Harpers Ferry National Historical Park and generally depicted on a map entitled 'Proposed Bradley and Ruth Nash addition—Harpers Ferry National Historical Park,' dated April 1, 1989 and numbered 385-80056. Such map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, Washington, D.C. When acquired, such lands or interests therein shall become a part of the park, subject to the laws and regulations applicable thereto.".

(b) Nothing in this Act shall be deemed to prohibit the Secretary from using such measures as may be necessary to acquire a clear and marketable title, free of any

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and all encumbrances, to the lands identified for acquisition in paragraph (a)(2) of this Act.

Purpose of the Measure

The purpose of S. 85 is to allow the Secretary of the Interior to accept the donation of 27 acres of land outside the boundary of the Harpers Ferry National Historical Park for inclusion in the park.

Background and Need

A national monument was established in Harpers Ferry on June 30, 1944 to commemorate the role the town played in the Civil War and the site of John Brown's raid on the Federal arsenal there in 1859. Subsequently, the monument became a national historical park in 1963, and now occupies 2,238 acres in West Virginia, Maryland and Virginia.

Because of its strategic location at the confluence of the Shenandoah and Potomac Rivers, and its well-developed railway system, Union and Confederate troop movements through Harpers Ferry were frequent, and soldiers of both armies occupied the town intermittently throughout the war. The largest military operation against Harpers Ferry occurred prior to the Battle of Antietam in September, 1862, when Confederate forces under General Thomas J. "Stonewall" Jackson seized the town and captured the 12,700-man Union garrison commanded by Colonel Dixon Miles.

S. 85 would amend the 1944 enabling legislation for the park by authorizing the Secretary to accept the donation of 27 acres of land outside the boundary of Harpers Ferry National Historical Park. After these lands are acquired, they will become part of the park.

The properties in question lie atop Bolivar Heights, just west of the town of Harpers Ferry. Situated on a high bluff overlooking the Potomac River, these lands witnessed substantial activity during the Civil War. In the spring of 1861, General Jackson encamped and trained his men on the property in preparation for the Battle of First Manassas. Subsequently, Union forces moved into the area and occupied it through the remainder of the war.

The former mayor of Harpers Ferry, Bradford Nash, and his wife, are the current owners of these lands. The Nashes would like to donate their current holdings on Bolivar Heights to the park subject to a right of use and occupancy which would terminate upon the death of the surviving spouse.

Legislative History

S. 85 was introduced by Senators Byrd and Rockefeller on January 25, 1989. A hearing was held by the Subcommittee on April 5, 1989.

At the business meeting on Wednesday, May 17, 1989, the Senate Committee on Energy and Natural Resources ordered S. 85, as amended, favorably reported.

Committee Recommendations and Tabulation of Votes

The Senate Committee on Energy and Natural Resources, in open business session on Wednesday, May 17, 1989, by unanimous

vote of a quorum present recommends that the Senate pass S. 85 if amended, as described herein.

The rollcall vote on reporting the measure was 19 yeas, 0 nays, as follows:

YEAS	NAYS
Mr. Johnston	
Mr. Bumpers	
Mr. Ford	
Mr. Metzenbaum	
Mr. Bradley	
Mr. Bingaman *	
Mr. Wirth	
Mr. Conrad *	
Mr. Heflin	
Mr. Rockefeller	
Mr. McClure	
Mr. Hatfield *	
Mr. Domenici	
Mr. Wallop *	
Mr. Murkowski *	
Mr. Nickles	
Mr. Burns *	
Mr. Garn	
Mr. McConnell *	

* Indicates voted by proxy.

Committee Amendment

During consideration of S. 85, the Committee adopted an amendment in the nature of a substitute. The amendment clarifies the location and extent of the lands which may be donated, adds a map reference, and gives the Secretary of the Interior the authority to use such measures as may be necessary to clear title on the donated lands.

Cost and Budgetary Considerations

The Congressional Budget Office estimate of the costs of this measure has been requested but was not received at the time the report was filed. When the report is available, the Chairman will request it to be printed in the Congressional Record for the advice of the Senate.

Regulatory Impact Evaluation

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which should be incurred in carrying out S. 85. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact of personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 85, as reported.

EXECUTIVE COMMUNICATIONS

The pertinent legislative report received by the Committee from the Department of the Interior setting forth executive agency recommendations relating to S. 85 is set forth below:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, April 25, 1989.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This responds to your request for our views on S. 85, a bill "To authorize the acceptance of certain lands for addition to Harpers Ferry National Historical Park, West Virginia."

We recommend that S. 85 be enacted, if amended as we suggest.

S. 85 would authorize the National Park Service to accept the donation of approximately 65 acres of land outside but adjoining the present boundaries of Harpers Ferry National Historical Park in and around Harpers Ferry, West Virginia.

The properties in question lie atop Bolivar Heights, just west of the Town of Harpers Ferry. Situated on a high bluff overlooking the Potomac River, these lands witnessed substantial activity during the Civil War. In the Spring of 1861, Col. "Stonewall" Jackson encamped and trained his men on the property in preparation for the Battle of First Manassas, or Bull Run. In June 1861, the Southern army abandoned the property and moved south into the Shenandoah Valley. Subsequently, Union forces moved into the area and occupied it throughout the remainder of the War. The discovery of a variety of Union artifacts on these lands attests to the presence of the Union forces some 125 years ago. Earthworks constructed on the Heights in 1864 by Union forces under General Sheridan remain in part, one of which is located on the property in question.

The former mayor of Harpers Ferry, Mr. Bradford Nash, and his wife Ruth are the current owners of much of these lands. The State of West Virginia is the only other landowner of the properties authorized for addition to the park under this bill. Mr. and Mrs. Nash have previously given land to the National Park Service at Harpers Ferry, and it is their intention to donate their current holdings on Bolivar Heights to the park, subject to a right of use and occupancy which would terminate upon the death of the surviving spouse. Currently, the Nashes occupy 21-plus acres of open pasture and mixed hardwood forest which provide habitat for a variety of native and migratory birds and other animals. There improvements include 2 contemporary houses and a barn. We would have no problem with their retention of use and occupancy rights on this property.

Similarly, the State of West Virginia has indicated a willingness to work with the park in managing the State's holdings on Bolivar Heights. It is not outside the realm of possibility that the State, too, might donate a portion of their holdings in this area, holdings which they originally received from Mr. and Mrs. Nash. State

lands are undeveloped and consist of both open meadows and forests.

Costs involved with these donations would be minimal. At some point in time, it will be necessary to deal with the 3 buildings and attendant improvements associated with the Nashes. There will also be minor cost associated with the transfer of real property.

We recommend that the bill be amended to make the authorization to accept the donation contingent upon receipt of assurances satisfactory to the Secretary that the Federal Government will receive clear title to the property. We understand that the Nashes acquired some of the property at tax sales, and the question of a clear title has not been assured as yet.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

BECKY NORTH DUNLOP,
Assistant Secretary.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 85, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Harpers Ferry National Historical Park; establishment; acceptance of donations of land, etc.

In order to carry out the purposes of section 450bb to 450bb–2 of this title, the Secretary of the Interior is authorized to acquire lands or interests in lands, by donation, purchase with donated or appropriated funds, or exchange, within the boundaries as generally depicted on the drawing entitled "Boundary Map, Harpers Ferry National Historical Park", numbered 385–80,021A and dated April 1979 which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. *Provided,* That after advising the Committees on Interior and Insular Affairs of the Congress of the United States, in writing, the Secretary may make minor revisions in the boundary, when necessary, by publication of a revised drawing or other boundary description in the Federal Register, but the total acreage shall not exceed [two thousand four hundred and seventy-five] *two thousand five hundred and five* acres: *Provided further,* That nothing herein shall be deemed to authorize the acquisition, without consent of the owner, of a fee simple interest in lands within the boundaries in which a less than fee interest has previously been acquired by the Secretary of the Interior. *The Secretary is authorized to acquire, by donation only, approximately twenty-seven acres of land or interests therein which are outside the boundary of the Harpers Ferry National Historical Park and generally depicted on a map entitled "Proposed Bradley and Ruth Nash Addition—Harpers Ferry National Historical Park," dated April 1, 1989 and numbered*

385–80056. Such map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, Washington, D.C. When acquired, such lands or interests therein shall become a part of the park, subject to the laws and regulations applicable thereto. Any Federal land within the area designated by the Secretary of the Interior as necessary for park purposes shall be transferred to the administration of the Department of the Interior and when so transferred shall become a part of the park: *Provided,* That the Federal department or agency having administration over such land shall agree in advance to such transfer.

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